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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,818	12/03/2003	Janis I. Ferrell	1755.0	4111
22497	7590	09/29/2004	EXAMINER	
LARSON AND LARSON 11199 69TH STREET NORTH LARGO, FL 33773			SZUMNY, JONATHON A	
		ART UNIT	PAPER NUMBER	
		3632		

DATE MAILED: 09/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/726,818	FERRELL, JANIS I. <i>K</i>
	Examiner	Art Unit
	Jon A Szumny	3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 17 June 2004.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1 and 3-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 and 3-6 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 December 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

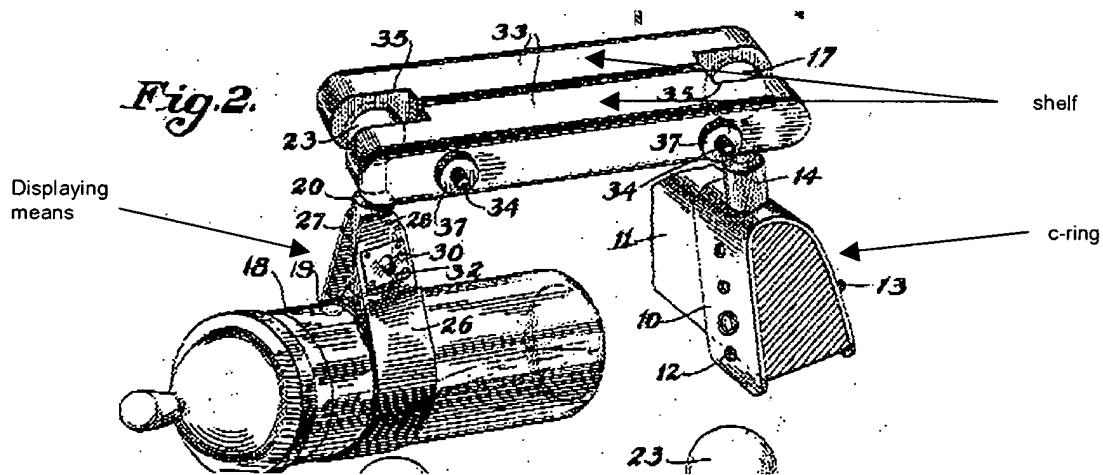
1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____.

This is the second office action for application number 10/726,818, Tableware Clip-On Device, filed on December 3, 2003.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 102***

Claims 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 1,590,227 to Britton.

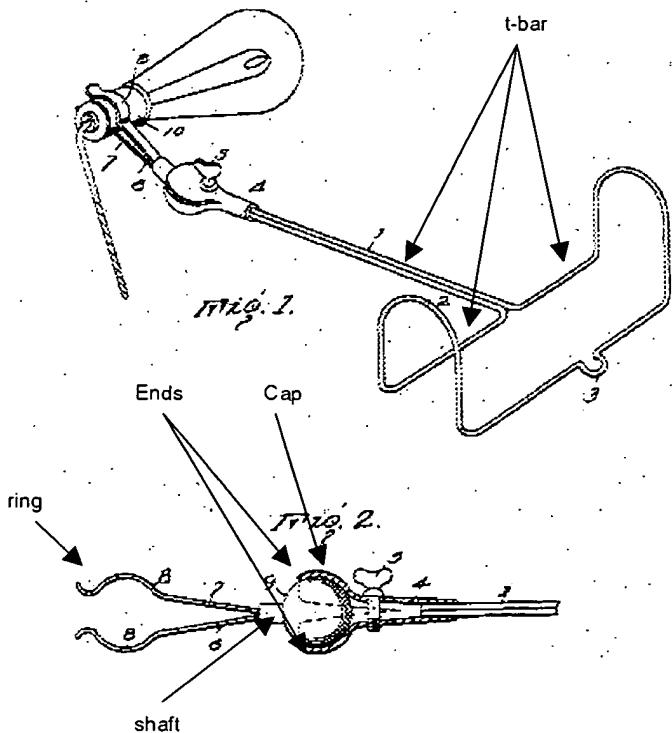


Britton '227 discloses a clip-on device (above) comprising a c-ring (above) integral with a rearwardly (depending upon a user's specific reference point) extending shaft. (15, "integral" is defined in Merriam-Webster's Collegiate Dictionary - 10<sup>th</sup> Edition as "formed as a unit with another part," so clearly the ring is integral with the shaft), wherein a distal end of the shaft is connected to a ball (the distal end of the shaft is connected to the ball 17 via pin 16), wherein the ball is supported by an axially mounted

pin (16) attached to the distal end of the shaft, a means (36) for movably gripping the ball and supporting a shelf (above), and a displaying means (above), wherein the gripping means is a frictionally engaging partial circular member, wherein the displaying means is a clamping device mounted on the shelf (via 22, 23 and 36).

***Claim Rejections - 35 USC § 103***

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes '894 in view of Japanese Patent number 408082318 to Sugiura.



Barnes '894 discloses a clip-on device (above) comprising a ring (above) integral with a shaft (above, utilizing same definition of "integral" from above) extending away from a back end of the ring, the shaft connected to a ball (9) at a point distal from the ring, a partially circular cap (above) supporting a t-bar (above) on an exterior surface

distal from an opening between a pair of ends (above) on the circular cap, the t-bar supporting a pair of spreadable lips (above, they are inherently "spreadable" since the wire can be "bent", see lines 42-44), wherein the ring is partially a c-ring, and partially a v-ring. However, Barnes '894 fails to specifically teach the ring to be a c-ring. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the ring of any of numerous shapes, including a c-shaped ring, so long as it still securely fastens to an object, since the particular shape claimed by the applicant is nothing more than one of numerous shapes that an ordinary artisan provides for using routine experimentation based on its suitability for the intended use of invention. See In Re Daily, 149 USPQ 47 (CCPA 1976).

Further, Barnes '894 fails to specifically teach the ball to be supported by an axially mounted pin attached to the shaft at the point distal from the C-ring. Nevertheless, Sugiura '318 divulges a shaft (11) connected to a ball (35) wherein the ball is supported by an axially mounted pin (25) attached to the shaft. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the device of Barnes '894 so that the ball is supported by an axially mounted pin attached to the shaft at the point distal from the C-ring so as to provide for superior attachment of the ball to the shaft

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barnes

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'894 in view of Sugiura '318, and further in view of U.S. Patent number 4,796,307 to Vantine.

Barnes '894 in view of Sugiura '318 teaches the previous invention failing to specifically divulge the c-ring, shaft, t-bar and spreadable lips to be made from a molded high strength polymer. Nevertheless, Vantine '307 discloses a clip type member (figure 2) comprised of a molded high strength polymer (column 3, lines 29-33). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have constructed the c-ring, shaft, t-bar and spreadable lips of the clip-on device of Barnes '894 in view of Sugiura '318 of a molded high strength polymer as in Vantine '307 since doing so would naturally provide for a low-cost, lightweight and sturdy material, in addition to the fact that doing so is well known in the art of clip-on devices.

### ***Response to Arguments***

Applicant's arguments filed June 17, 2004 have been fully considered but they are not persuasive.

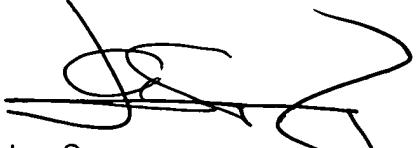
Applicant's arguments with respect to claims 1 and 3-6 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.

The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



Jon Szumny  
Patent Examiner  
Technology Center 3600  
Art Unit 3632  
September 20, 2004